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APPLICATION NO.		FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/049,701		04/28/2002		Ilan Samson	2613RI-1	7723	
22442	7590	07	//17/2003				
SHERID			EXAMINER				
1560 BROADWAY SUITE 1200					HYLTON, ROBIN ANNETTE		
DENVER	t, CO 80	)202			ART UNIT	PAPER NUMBER	
					3727		
					DATE MAILED: 07/17/2003	/	

Please find below and/or attached an Office communication concerning this application or proceeding.

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		Application No.	Applicant(s)		
Office Action Summary		10/049,701	SAMSON, ILAN		
		Examiner	Art Unit		
		Robin A. Hylton	3727		
The MAILING DATE of this cor Period for Reply	nmunication appe	ars on the cover shee	t with the correspondence ad	dress	
A SHORTENED STATUTORY PERI THE MAILING DATE OF THIS COM  - Extensions of time may be available under the pro- after SIX (6) MONTHS from the mailing date of th  - If the period for reply specified above is less than  - If NO period for reply is specified above, the maxi  - Failure to reply within the set or extended period for the company of the comp	MUNICATION.  ovisions of 37 CFR 1.136 is communication.  thirty (30) days, a reply v  mum statutory period will  for reply will, by statute, c  nonths after the mailing d	(a). In no event, however, ma within the statutory minimum of apply and will expire SIX (6) Na ause the application to become	y a reply be timely filed thirty (30) days will be considered timely MONTHS from the mailing date of this co e ABANDONED (35 U.S.C. § 133).		
1) Responsive to communication	n(s) filed on	_•			
2a)☐ This action is <b>FINAL</b> .	2b)⊠ This	action is non-final.			
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims					
4)⊠ Claim(s) <u>1-12</u> is/are pending i	n the application.				
4a) Of the above claim(s)	_ is/are withdraw	n from consideration.			
5) Claim(s) is/are allowed.					
6)⊠ Claim(s) <u>1-12</u> is/are rejected.					
7) Claim(s) is/are objected	l to.				
8) Claim(s) are subject to Application Papers	restriction and/or	election requirement.			
9)⊠ The specification is objected to	by the Examiner.				
10) The drawing(s) filed on is	s/are: a)⊟ accepto	ed or b) objected to b	y the Examiner.		
Applicant may not request that a	ny objection to the	drawing(s) be held in ab	eyance. See 37 CFR 1.85(a).		
11) ☐ The proposed drawing correction filed on is: a) ☐ approved b) ☐ disapproved by the Examiner.					
If approved, corrected drawings	are required in reply	y to this Office action.			
12)☐ The oath or declaration is object	ted to by the Exa	miner.			
Priority under 35 U.S.C. §§ 119 and 12	0				
13)⊠ Acknowledgment is made of a	claim for foreign	priority under 35 U.S.	C. § 119(a)-(d) or (f).	•	
a)⊠ All b)□ Some * c)□ Non	e of:				
1. Certified copies of the p	riority documents	have been received.			
2. Certified copies of the p	riority documents	have been received in	n Application No		
3.⊠ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.					
14)☐ Acknowledgment is made of a c	laim for domestic	priority under 35 U.S.	C. § 119(e) (to a provisional	application).	
a) ☐ The translation of the forei 15)☐ Acknowledgment is made of a c	gn language prov	isional application has	s been received.	,	
Attachment(s)		production of the			
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Re 3) Information Disclosure Statement(s) (PTO-1			ew Summary (PTO-413) Paper No( of Informal Patent Application (PTC		
U.S. Patent and Trademark Office PTO-326 (Rev. 04-01)	Office Actio	on Summary	Part of Paper No. 7		

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#### **DETAILED ACTION**

1. The papers filed on **September 9, 2002** have not been made part of the permanent records of the United States Patent and Trademark Office (Office) for this application (37 CFR 1.52(a)) because of damage from the United States Postal Service irradiation process. The above-identified papers, however, were not so damaged as to preclude the USPTO from making a legible copy of such papers. Therefore, the Office has made a copy of these papers, substituted them for the originals in the file, and stamped that copy:

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If applicant wants to review the accuracy of the Office's copy of such papers, applicant may either inspect the application (37 CFR 1.14(d)) or may request a copy of the Office's records of such papers (i.e., a copy of the copy made by the Office) from the Office of Public Records for the fee specified in 37 CFR 1.19(b)(4). Please do **not** call the Technology Center's Customer Service Center to inquiry about the completeness or accuracy of Office's copy of the above-identified papers, as the Technology Center's Customer Service Center will **not** be able to provide this service.

If applicant does not consider the Office's copy of such papers to be accurate, applicant must provide a copy of the above-identified papers (except for any U.S. or foreign patent documents submitted with the above-identified papers) with a statement that such copy is a complete and accurate copy of the originally submitted documents. If applicant provides such a copy of the above-identified papers and statement within **THREE MONTHS** of the mail date of this Office action, the Office will add the original mailroom date and use the copy provided by applicant as the permanent Office record of the above-identified papers in place of the copy made by the Office. Otherwise, the Office's copy will be used as the permanent Office record of the above-identified papers (*i.e.*, the Office will use the copy of the above-identified papers made by the Office for examination and all other purposes). This three-month period is not extendable.

#### Specification

- 2. The abstract of the disclosure is objected to because it contains the objectionable phrase "is disclosed". Correction is required. See MPEP § 608.01(b).
- 3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

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4. The disclosure is objected to because of the following informality: both "hollow cylindrical portion" and "cylindrical grip" are used in conjunction with reference character **26**. Appropriate correction is required.

### Claim Rejections - 35 USC § 112

5. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "HxV" has not been defined in the claim nor the structure represented thereby.

### Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 7. Claims 1-3 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayes, Jr. (US 4,915,250).

See each embodiment illustrated in figures 1-4 and 5-6.

To the degree claim 3 is understood in view of the rejection under 35 USC 112, 2<sup>nd</sup> paragraph above, Hayes, Jr. anticipates the claim.

## Claim Rejections - 35 USC § 103

- 8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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9. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman et al. (US 5,186,347) in view of Boese (3,102,651).

Freeman teaches the claimed cup except for a valve providing a tubular passage having a first and a second end and formed between an inner surface of the lid and/or in inside of a spout.

Boese teaches it is known to provide a valve in a container spout having a tubular passage to restrict the flow of liquid out of the opening.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the valve of Boese into the spout of Freeman. Doing so provides a more durable leak-proof valve.

#### Conclusion

- 10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various valve and restrictors are cited for their disclosures.
- 11. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9302 or (703) 872-9303 for after final amendments. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.
- 12. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

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I hereby certify that this correspondence for Application Seri The U.S. Patent and Trademark Office via fax number (703) 872	
Typed or printed name of person signing this certificate	
Signature	
Date	

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner works a flexible schedule, but can normally be reached on Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Bembry at (703) 306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

RAH July 12, 2003

Ròbin A. Hylton Primary Examiner GAU 3727